

## **REMARKS**

### **I. INTRODUCTION**

Claims 1, 3-12, 14-18, 21-34, 36, and 41 -62 are pending. Claims 1, 18, 27, 41, 46, 48, 53, 54, 56, and 59 are independent claims. In the Office Action, claims 27, 32-34, 36, 46, 47, 54, and 59-61 were rejected as allegedly anticipated by U.S. Patent Number 6,035,020 (“Weinstein”). Claims 1, 3-7, 9-12, 15, 17, 18, 21-26, 28-30, 41-45, 56, and 58 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Weinstein in view of United States Patent No. 5,692,043 (“Gliga”). Claims 16 and 57 were rejected under Section 103 as unpatentable over Weinstein in view of Gliga and United States Patent No. 6,480,487 (Wegleitner). Claims 31 and 55 were rejected as obvious over Weinstein in view of Wegleitner. Claims 48, 51, 52, and 62 were rejected as obvious over Weinstein in view of U.S. Patent No. 6,163,599 (McHale). Claims 49 and 50 were rejected as obvious over Weinstein in view of Gliga and Wegleitner.

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action.<sup>1</sup> Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2).

### **II. SECTION 102 REJECTIONS**

#### **A. Claim 27**

Claim 27 recites in part “scanning said local link at said switch associated with said line unit to provide monitoring of said signal.” Weinstein does not teach or suggest at least the foregoing recitation of claim 27. The Examiner asserted that the “scanning said local link at said switch” was

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<sup>1</sup> As Applicant’s remarks with respect to the Examiner’s rejections are sufficient to overcome the present rejections, Applicant’s silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future. Further, Applicants do not necessarily agree with or acquiesce to the Examiner’s characterizations of the scope and meaning of their claims.

anticipated by Weinstein's switch 120, stating that "[s]witch 120 acts as a scanning device since it selectively connects either PC 122 or other devices 121 from the local link to the signal detector." (Office Action, page 2.) However, Weinstein discloses switch 120 within a subscriber premises, stating that "a subscriber switch 120 connects the subscriber line 110 to a personal computer (PC) with a modem or to other devices, such as a telephone or a facsimile machine." (Weinstein, col. 4, lines 17-19). Further, Weinstein explained that, "[t]ypically, the switch 120 is built into PCs." (Weinstein, col. 4, lines 23-24). Therefore, Weinstein's switch at most connects devices from within the customer premises to a subscriber line at the customer location when a call is presented for switching (Weinstein, Fig. 1; col. 4, lines 15-23). Weinstein's switch does not perform and "scanning."

More specifically, Weinstein discloses at most a line card connected to a local link, and a switch 130 in the line card (Weinstein, Fig. 1-4). The switch is normally closed to the voiceband path (Weinstein, col. 3, lines 24-25; col. 7, lines 40-41; col. 10, lines 17-23). If Weinstein's DTMF receiver/data call prefixer isolates a data call dialing prefix, then the switch is moved to the data call path position (Weinstein, col. 7, lines 36-40). No "scanning" occurs at all. Further, Weinstein's switch is within the customer premises as is clearly seen in Weinstein's Figure 1; therefore it cannot be "associated with said line unit."

For at least the foregoing reasons, the rejections of claim 27, as well as all claims depending therefrom, must be withdrawn.

## **B. Claim 46**

### **1. "the switch further configured for scanning . . ."**

Claim 46 recites in part "a switch for connection to the local link, the switch comprising a first port for a narrowband communication and a second port for connection to the broadband data network; the switch further configured for scanning each of a set of local links." Weinstein does not teach or suggest at least the foregoing recitation of claim 46. In fact, the rejection of claim 46 must be withdrawn because the Examiner failed to point to any teaching or suggestion in Weinstein relevant to "the switch further configured for scanning each of a set of local links" (see Office Action, page 4) and therefore failed to state a *prima facie* case of anticipation. Further, Weinstein's voice/data switch 130, alleged by the Examiner to read on the switch recited in claim 46 (Office

Action, page 4), cannot be “configured for scanning each of a set of local links.” Weinstein explains that his switch 130 is also known as a “call diversion switch” that is thrown, when appropriate, to handle data calls. (Weinstein, col. 5, lines 4-19.) Not only does Weinstein not teach or suggest that his switch 130 is configured to perform any “scanning,” but there is no possibility that Weinstein’s throw switch could have been so configured. Further, the arguments above concerning the lack of “scanning” in claim 27 are also applicable with respect to claim 46.

Moreover, the Examiner’s reasoning is flawed on its face because the Examiner stated that “switch 126 as a scanning device since it selectively connects either PC 122 or other devices 121 from the local link to the signal detector.” (Office Action page 4.) Even if Weinstein’s switch 120 does “selectively connect either PC 122 or other devices 121,” such “selective connection” is not acting as “a scanning device.” At most, as discussed above – and the Examiner has alleged no more – Weinstein simply teaches a switch that provides a connection, not a switch that performs any scanning.

For at least the foregoing reasons, the rejections of claim 46, as well as claim 47 depending therefrom, must be withdrawn.

**2. “the switch further comprising a controller for controlling the scanning”**

Claim 46 further recites “the switch further comprising a controller for controlling the scanning.” Not only is Weinstein’s switch not “configured for scanning” as discussed above, but Weinstein does not teach or suggest any “controller for controlling the scanning.” Further, while the Examiner has contended that Weinstein’s switch 120 acts as a scanning device” the Examiner has not pointed to any element in Weinstein that reads on the recited “controller.” For least this reason, the rejection of claim 46 must be withdrawn. Moreover, because Weinstein does not teach or suggest any device “configured for scanning,” Weinstein cannot possibly teach or suggest a “controller for controlling the scanning.”

For at least the foregoing further reasons, the rejections of claim 46, as well as claim 47 depending therefrom, must be withdrawn.

**C. Claim 54**

**1. “a request for a communication path to a destination”**

Claim 54 recites in part “receiving, from a customer premises terminal a local link to a line unit and telephone network switch in a switched telephone network, a request for a communication path to a destination.” However, the Examiner did not identify any specific element in Weinstein that allegedly reads on the recited “request for a communication path to a destination.” For at least this reason, the rejection of claim 54 must be withdrawn.

Further, Weinstein does not teach or suggest the recited “request for a communication path to a destination.” At most, Weinstein teaches concentrators that receive as inputs outputs from analog-to-digital converters, and that provide outputs to a voice switch 155. (Weinstein, column 5, lines 36-47.) In other words, Weinstein’s concentrators simply receive inputs and provide outputs, but do not receive or provide a “request for a communication path to a destination.” If the Examiner persists in this rejection, the Examiner is respectfully requested to identify what elements in Weinstein allegedly read on the recited “request, the “communication path,” and the recited “destination.” Applicants respectfully submit that these elements are absent in Weinstein, and for at least this reason, the rejection of claim 54, and also of claim 55 depending therefrom, must be withdrawn.

**2. “controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit”**

Claim 54 further recites in part “controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit.” However, Weinstein does not teach or suggest the foregoing recitation of claim 54 at least for reasons set forth above concerning claims 27 and 46. Therefore, the rejection of claim 54, and also of claim 55 depending therefrom, must be withdrawn.

**D. Claim 59**

Claim 59 was rejected as anticipated by Weinstein on grounds similar to those set forth for claim 27. (Office Action page 6.) Therefore, even though claims 27 and 59 differ in scope, claim

59 and the claims depending therefrom are patentable over the cited references at least for the reasons set forth above concerning claim 27.

### **III. SECTION 103 REJECTIONS**

#### **A. Claim 1**

##### **1. “scanning said local link . . .”**

Claim 1 recites in part “controlling a scanning device to selectively connect a detector to said local link, wherein the scanning device and detector are associated with said line unit.” The Examiner contended that Weinstein read on the foregoing recitation of claim 1. However, for at least the reasons stated above concerning claims 27 and 46, Weinstein fails to teach any “scanning,” and the rejection of claim 1 must be withdrawn for at least this reason.

In addition, Weinstein does not teach or suggest a “scanning device and detector.” At most, Weinstein discloses a Dual Tone Multiple Frequency (DTMF) detector that “receives and detects tones” and “outputs the digital dialing sequence” (Weinstein, col. 4, lines 55-57). In other words, the DTMF is an analog to digital converter. A data call prefixer uses the “digital dialing sequence” from the DTMF to “identify a prefix that precedes a data call telephone number” (Weinstein, col. 4, lines 57-59). These two devices, the DTMF and the data call prefixer, merely isolate the dialing prefix and do not either alone or together operate as a “scanning device and detector.” Claim 1 is further patentable over Weinstein for at least this reason.

However, as described above, switch 120 connects devices to a local link, and does not connect devices to a signal detector. Furthermore, even if Weinstein’s switch 120 connected devices to the signal detector (which it does not), the switch would not “connect a detector to said local link.” Assuming *arguendo*, as the examiner asserted, that the DTMF receiver and prefix detector are the “detector” of claim 1, Weinstein still would not teach or suggest to “connect [the] detector to said local link.” Weinstein does not teach or suggest that the DTMF receiver and prefix recognizer are ever disconnected from the local link and as such there would not be a need to connect them.

Moreover, not only is Weinstein’s switch 120 not a “scanning device,” as discussed above, but Weinstein does not teach or suggest a “scanning device” or connecting to “said local link” at all. Weinstein discloses at most a line card connected to a local link, and a switch 130 in the line card

(Weinstein, Fig. 1-4). The switch is normally closed to the voiceband path (Weinstein, col. 3, lines 24-25; col. 7, lines 40-41; col. 10, lines 17-23). If Weinstein's DTMF receiver/data call prefixer isolates a data call dialing prefix, then the switch is moved to the data call path position (Weinstein, col. 7, lines 36-40). No "scanning" occurs at all, much less scanning by a "scanning device" which is able to "selectively connect a detector to said local link."

Gliga does not compensate for these deficiencies of Weinstein. Claim 1, and the claims depending therefrom, are therefore patentable over Weinstein and Gliga for at least the foregoing reasons.

**2. "responsive to said determination, connecting said communication path from said concentrator network through a portion of said line unit . . ."**

Claim 1 further recites in part "establishing a communication path from said local link through a concentrator network in set line unit," "determining based on said data sequence that said requested does not seek conversion in set line unit," and "responsive to said determination, connecting said communication path from said concentrator network through a portion of said line unit around a converter in said line unit to a wide band data switch connected to a data network." Examiner conceded that Weinstein does not teach or suggest the foregoing recitation of claim 1, and cited Gliga as allegedly compensating for the acknowledged deficiencies of Weinstein. However, Gliga teaches nothing more than using line units to concentrate "the 700 to 1000 telephone lines onto 120 digital channels that connect to a group unit switch." (Gliga, column 3, lines 28-30.) Gliga does not teach or suggest that concentration is performed responsive to any determination, or that any communication path is connected from a concentrator network responsive to any determination. Further, Gliga does not contain any teaching or suggestion, and the Examiner has not pointed to any, concerning making a connection "through a portion of said line unit around a converter in said line unit." If the Examiner maintains the present rejection, the Examiner is respectfully requested to identify the specific element in Gliga that allegedly reads on the recited "converter in said line unit," as well as the specific teaching in Gliga that is allegedly relevant to making a connection "around" the converter.

For any of the foregoing additional reasons, the rejection of claim 1, and the claims depending therefrom, must be withdrawn.

**B. Claim 18**

Claim 18 was rejected over Weinstein and Gliga on grounds similar to those set forth for claim 1. (Office Action page 11.) Therefore, even though claims 1 and 18 differ in scope, claim 18 and its dependent claims are patentable over the cited references at least for the reasons set forth above concerning claim 1.

**C. Claim 41**

For reasons similar to those stated above concerning claim 1, claim 41, and all claims depending therefrom, are patentable over Weinstein. Further, claim 41 and its dependent claims are patentable over Weinstein for the following additional independent reasons.

**1. “a scanning device that is configured to sequentially connect to at least one of said plurality of local links”**

Claim 41 recites in part “a scanning device that is configured to sequentially connect to at least one of said plurality of local links.” Weinstein does not teach or suggest “a scanning device,” as stated above, and therefore for at least this reason does not teach or suggest “a scanning device that is configured to sequentially connect to at least one of said plurality of local links.” As further stated above, Weinstein discloses at most a local link connected to a line card and making a determination, in the data call prefixer based on the signal on that local link, whether or not to disconnect the switch from the voiceband path and connect it to the data call path. Thus, not only does Weinstein’s data prefixer not perform a scanning function on Weinstein’s one local link, it cannot “sequentially connect to . . . [a] plurality of local links.” Indeed, Weinstein provides no teaching or suggestion of a “plurality of local links,” much less a device “configured to sequentially connect to a plurality of local links.” Gliga does not compensate for these deficiencies of Weinstein. For at least this further reason, claim 41 and its dependent claims are patentable over the cited references.

**2. “a monitor in communication with said scanning device, wherein the monitor . . . generate[s] an output signal to said concentrator network to cause said concentrator network to provide a connection to said port”**

Claim 41 further recites in part “a monitor in communication with said scanning device, wherein the monitor is configured to, upon detecting a pre-designated signal on a local link connected within said sequence, generate an output signal to said concentrator network to cause said

concentrator network to provide a connection to said port for signals on said link.” The Examiner asserted that Weinstein’s prefix detector is part of the “monitor” of claim 41 (Office Action, page12). However, as described in detail above, Weinstein does not teach or suggest a scanning device. Therefore, Weinstein also cannot teach or suggest “a monitor in communication with said scanning device” and as such the prefix detector cannot be the “monitor.” Moreover, the Examiner stated that the prefix detector provides “an output signal to said concentrator network to cause said concentrator network to provide a connection to said port.” However, the prefix detector is not the monitor, and claim 41 recites that “the monitor . . . generate[s] an output signal.”

As stated above, Weinstein discloses determining if the call is a voiceband or a data call, then controlling a switch on the line card to route the call to the appropriate concentrator. The claim 41 recitation that the “concentrator . . . [provides] a connection to said port” is different than Weinstein’s disclosure that the line card provides a connection to one or the other concentrator. As described above, Weinstein discloses two concentrators, one for voiceband calls and one for data calls. Weinstein’s prefix detector causes the line card to provide a connection to the data call concentrator. (Weinstein, Fig. 1; col. 5, lines 4-5). In contrast, claim 41 recites that “the monitor . . . [causes] the concentrator network to provide a connection to said port.”

Gliga does not compensate for the foregoing deficiencies of Weinstein. For at least these further reasons, claim 41 and its dependent claims are patentable over Weinstein and Gliga.

**D. Claim 48**

Claim 48 was rejected over Weinstein and Gliga on grounds similar to those set forth for claims 46 and 47. (Office Action page 17.) Therefore, even though claims 46 and 47 and 48 differ in scope, claim 48 is patentable over the cited references at least for the reasons set forth above concerning claim 46.

**E. Claim 53**

Claim 53 was rejected over Weinstein and Gliga on grounds similar to those set forth for claim 1. (Office Action page 16.) Therefore, even though claims 1 and 53 differ in scope, claim 53 is patentable over the cited references at least for the reasons set forth above concerning claim 1.



**F. Claim 56**

Claim 56 was rejected over Weinstein and Gliga on grounds similar to those set forth for claims 27, 28, 29, and 30. (Office Action page 14.) Therefore, even though claims 56 and 27, 28, 29, and 30 differ in scope, claim 56 is patentable over the cited references at least for the reasons set forth above concerning claim 27.

**IV. CONCLUSION**

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 65632-0140. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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